BELLSOUTH TELECOMMUNICATIONS, INC.

REBUTTAL TESTIMONY OF BILL SMITH

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020507-TL

DECEMBER 23, 2002

Q. PLEASE STATE YOUR NAME, YOUR OCCUPATION, AND YOUR BUSINESS ADDRESS.

A. My name is Bill Smith. I am the Chief Product Development and Technology Officer for BellSouth. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes. I filed direct testimony on November 26, 2002.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony responds to the contention made by Mr. Joseph Gillan in his direct testimony filed on behalf of the Florida Competitive Carriers Association ("FCCA") that BellSouth's policies concerning its FastAccess service are contrary to the national policy goal of increased broadband penetration. (p. 9). My testimony focuses on the negative implication that would result from a Florida

Public Service Commission mandate upon BellSouth to offer its FastAccess service to any ALEC end user that requests such service.

Q. MR. GILLAN REFERS TO THE RESPONSIBILITY OF THE FCC AND STATE COMMISSION TO "ENCOURAGE THE DEPLOYMENT OF ADVANCED SERVICES." (P. 9). WOULD AN ORDER THAT BELLSOUTH PROVIDE FASTACCESS SERVICE TO ANY ALEC END USER ENCOURAGE SUCH DEPLOYMENT?

A. Absolutely not. To the contrary, 190 of BellSouth's 198 central offices are currently capable of providing FastAccess service. The flip side of this is that 8 BellSouth central offices in Florida do not presently have the capability to provide FastAccess service. More significantly, there are 9,622 BellSouth remote terminals in Florida, of which 3,676 presently have the capability to provide FastAccess service, meaning that 5,946 remote terminals do not have such capability. As I have testified on direct and as set forth herein, any order that would require BellSouth to make its FastAccess service available to any end user customers may negatively impact BellSouth's desire to make future BellSouth investments in advanced services in the central offices and remote terminals in Florida without FastAccess capability. BellSouth agrees with the sentiment expressed by former AT&T Chairman Michael Armstrong, when he observed "[n]o company will invest billions of dollars to become a facilities-based . . . provider" if other companies "[that] have not invested a penny of capital nor taken an ounce or risk can come along and get a free ride on the investments and risks of others." *See* C. Michael Armstrong, *Telecom and Cable TV: Shared*

Prospects for the Communications Future, delivered to the Washington Metropolitan Cable Club (Nov. 2, 1998).

Q. MR. GILLAN REFERS TO A "HOBSON'S CHOICE ON CONSUMERS." DOES THE RELIEF REQUESTED BY THE FCCA IMPOSE A "HOBSON'S CHOICE" ON BELLSOUTH?

A. It does. If BellSouth were required to offer FastAccess to end users of alternate voice providers, we would forced against our own business judgment to make substantial investment and incur costs which we are entitled to recover. We would have to recover these costs either through 1) ALEC contributions, or 2) higher rates for ISP customers. Both of these options would result in a higher end user price, and in turn, make FastAccess less competitive with cable modem services. Cable modem providers already dominate the broadband market, and a higher FastAccess price would drive even more end users and even ISPs to cable. Furthermore, imposing these kind of unwarranted obligations on BellSouth would discourage our investing in new and enhanced services to make better broadband-based products. Our view would be why make these investments if this Commission, or any other regulatory body, could essentially make us give the fruit of our inventiveness and our willingness to invest our money in research and development to our competitors, who would not be required to take any of the risks associated with failed efforts, which always occur when you are trying to develop new products.

Regulatory decisions that discourage our investment and development of these unregulated products will have two clear impacts that this Commission ought to be concerned with. First, we have deployed this new technology in the most urban areas where there is the highest concentration of early adopters capable of supporting the high costs of initial capital investments, expecting to expand our offerings as the technology became more accepted and cost effective Stifling further investment will obviously impact the areas that we have not already reached, and these are generally the more rural areas. Second, any delay in making further broadband investments because of unfair regulatory requirements imposed on an unregulated service will impair our ability to compete against largely unregulated cable modem providers. While it seems that the latter point would suggest that we would continue to make these investments in order to maintain our competitive position with regard to the cable modem competitors, the fact of the matter is that BellSouth has only a finite amount of resources to invest and it cannot be expected to make investments to provide unregulated services to its ALEC competitors who could well invest their own capital to provide these services if they truly wanted to serve their own customers. Again, it isn't competition when a regulatory agency forces BellSouth to fund the development of an investment in an unregulated service so that the service can then be provided to its ALEC competitors.

Finally, it should go without saying today that capital is not unlimited; thus, requiring BellSouth to comply with costly regulatory requirements means that capital that may have been spend elsewhere must be diverted into making an unregulated product available to customers of ALECs. Put simply, if BellSouth were not permitted to take full advantage of its broadband investments and if we were not permitted to invest in other areas we considered important to our business, then BellSouth has less incentive to make such investments in the future.

Q. HAD BELLSOUTH BEEN REQUIRED TO OFFER THESE SERVICES TO END USERS OF ALEC OWNED VOICE LINES, WOULD THEY STILL HAVE INVESTED IN THIS TECHNOLOGY?

A: That is difficult to answer, nonetheless consistent with what I have said above, BellSouth would not have made as substantial an investment in broadband technology if we were the only ones required to invest and all other providers were allowed to reap the benefits of the BellSouth investment. It is a basic financial principle that when a company takes on additional risk, it does so with the hopes of getting increased return as well. If BellSouth knew that other providers would share in the return but not the risk, then BellSouth would have chosen to minimize its risk and not have deployed FastAccess to the scale that it has done so today.

Q. IF THE COMMISSION ALLOWS BELLSOUTH TO BENEFIT FROM ITS INVESTMENTS, WOULD THE EFFECT BE TO CREATE A BARRIER TO COMPETITION AS MR. GILLAN CONTENDS (P. 11)?

A. No. If the Commission sends the message that the companies willing to make investments into new services will enjoy the benefit of their investment, the result will encourage carriers to fully seek out new and innovative technologies rather than delay the introduction of any such products. BellSouth's position, rather than that advanced by Mr. Gillan, is the one that would ultimately encourage broadband deployment consistent with federal and state goals.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.